

UNITED STATES OF AMERICA
DISTRICT OF MASSACHUSETTS

UNITED STATES

V. NO. 04-cr-10135 (GAO)
MJM04-812-MBB

THOMAS SCOLA

DISCOVERY MOTION
CONCERNING WEIGHT OF DRUGS

Any and all notes, reports, and memoranda, handwritten or otherwise, regarding the weighing of the drugs in question in this case.

In support thereof, the defendant states that he has requested this information from the government by letter form on September 27, 2004 and received no response. (A copy of the letter is attached to this motion).

The weight, according to the government's documents of the total amount of drugs allegedly sold by the defendant is 106.77, just over the demarcation point of 100 grams, which greatly affects the defendant's potential sentence. The defendant seeks to review the manner in which the chemist(s) weighed the drugs; whether it was by sample and if so, the manner in which the sample was taken, tested and weighed, whether it included packaging, what the level of calibration was on the weight and so forth. The weight of the drugs must be proven by the government beyond a reasonable doubt under both Apprendi and Blakely and as such, the defendant in this case is entitled to the discovery concerning the means by which the weight was determined.

Thomas Scola
By His Attorneys

CARNEY & BASSIL

_/s/_Janice Bassil

Janice Bassil
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Certificate of Service

I, Janice Bassil, state that I have served a copy of the within motion to AUSA David Tobin, United States Court House, 1 Courthouse Way, Boston, Ma. and all defense counsel of record by first class US Mail this 1st day of December, 2004 with notice that I would present said motion before Magistrate Judge Bowler on December 9, 2004. Signed under the pains and penalties of perjury.

_/s/_Janice Bassil
Janice Bassil